



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salt Lake Field Office
2370 South 2300 West
Salt Lake City, Utah 84119

IN REPLY REFER TO:

U-77041
3600
(UT-023)

Certified Mail #Z 181 696 945
Return Receipt Requested

Mr. Bernard Rigby
123 West 8865 South Lot 29
Sandy, Utah 84070

Dear Mr. Rigby:

On November 30, 1999, this office conducted an inspection of your Snow White #1-3 lode mining claims located in the SE¼ of Section 21, T. 13 N., R. 16 W. (UMC 225049-225051). This inspection revealed that you are mining and crushing a white to buff quartzite material from a side-hill quarry located northwest of Dove Creek Pass. Several stockpiles of crushed aggregate and a stockpile of larger cobbles were found adjacent to the main access road leading into the site.

The subject mining claims were located on August 25, 1980, on lands patented under the Stock Raising Homestead Act (SRHA) of December 29, 1916. In Section 9 of the SRHA, all patents issued contain a reservation to the United States of all coal and other minerals, with these mineral resources subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. A copy of the SRHA has been enclosed for your information.

On July 23, 1955, Public Law 167 was enacted, which removed "common variety" minerals from the mining law (copy enclosed). Specifically, the law states "a deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws." "Common varieties" include deposits which, although they may have value for use in trade, manufacture, the sciences, or in the mechanical or ornamental arts, do not possess a distinct, special economic value for such use over and above the normal uses of the general run of such deposits. This means that mining claims located after July 23, 1955 for common variety mineral materials may not be valid, and that common variety minerals that have been removed under the auspices of the mining law on claims located after that date may have been removed in trespass. These common variety mineral materials would generally be disposed of under Bureau of Land Management mineral material disposal regulations at 43 CFR 3600.

We believe that you may be mining common variety mineral materials (salable minerals) under the auspices of the mining law. For minerals to be uncommon, and therefore locatable, they must meet the following criteria, as cited in McClarty v. Secretary of Interior, 408 F. 2d. 907, 980 (9th Cir. 1969):

5/003/052

Rigby is
"Claim holder"

FEB 16 2000

Sagers is
"Operator"

RECEIVED

FEB 17 2000

DIVISION OF
OIL, GAS AND MINING

1. There must be a comparison of the mineral deposit in question with other deposits of such minerals generally;
2. The mineral deposit in question must have a unique property;
3. The unique property must give the deposit a distinct and special value;
4. If the special value is for uses to which ordinary varieties of the mineral are put, the deposit must have some distinct and special value for such use; and
5. The distinct and special value must be reflected by the higher price which the material commands in the marketplace, or by reduced cost or overhead so that the profit to the claimant would be substantially more.

Please provide this office with any information that you believe will support the locatability of the subject quartzite deposit, using the above criteria as a guide. Any information you provide will be used to evaluate the Snow White # 1-3 quartzite deposit, and may be used to determine the validity of any other mining claims that you may have located for that same mineral material or for its intended use.

Please be advised that the "location of a mining claim" by yourself, or a previous claimant, does not give the presumption of a discovery (Ranchers Exploration and Development Co. v. Anaconda Co., 248 F. Supp. 708 (1965)). In Cole v. Ralph (252 US 286, 294-296 (1920)), the Supreme Court held that "location is the act or series of acts whereby the boundaries of the claim are marked, etc., but it confers no right in the absence of discovery, both being essential to a valid claim." In simple terms, this means that the act of "locating a mining claim" is not enough to establish the validity of a mining claim, or to determine whether or not minerals located within the boundary of the claim (or claims) are locatable.

Please submit the requested information within 30 days of receipt of this letter. If you have any questions, or require additional information, please feel free to contact Michael Ford of my staff at (801) 977-4360.

Sincerely,

GLENN A. CARPENTER

Glenn A. Carpenter
Field Office Manager

Enclosures

cc: D. Wayne Hedberg
Utah Division of Oil, Gas and Mining